



## Madagascar

### Country Reports on Human Rights Practices - [2003](#)

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The country is a multiparty democracy in which the President and a bicameral legislature shared power. President Marc Ravalomanana, who was elected in December 2001, and his party, Tiako-I-Madagasikara (TIM), dominated political life. Until May 2002, when President Ravalomanana was declared President, incumbent President Didier Ratsiraka and his party, Alliance for the Rebirth of Madagascar (AREMA), disputed the results of the 2001 election, which resulted in widespread violence and numerous deaths. The December 2002 legislative elections, which international observers judged as generally free and fair, resulted in an overwhelming victory for TIM and its alliance partners, the pro-Ravalomanana National Alliance. In the November municipal elections, TIM won a majority of both rural and urban mayoral seats. During the year, the President continued his anti-corruption campaign, which resulted in the conviction of 12 magistrates and the establishment of the National Anti-Corruption Council. The judiciary remained susceptible to corruption and subject to executive influence.

The Minister for Public Security (formerly a State Secretary at the Ministry of the Interior) heads the national police and is responsible for law and order in urban areas. The Gendarmerie Nationale, part of the Ministry of National Defense, is responsible for security in all other areas of the island. Regular army units and reservists at times assumed law enforcement roles in matters requiring large-scale logistical support, such as cattle theft. Some members of the security forces committed human rights abuses.

The country was very poor with a population of 16 million; the economy was mixed. Agriculture was the largest sector of the economy, and shrimp and vanilla were the leading exports. Approximately 70 percent of the population was below the Government's own poverty level of approximately 45 cents a day in income. The gross domestic product, which declined 12.7 percent in 2002, grew by 9.6 percent during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Security forces used lethal force to disperse demonstrations, which resulted in numerous injuries and one death. Prison conditions were harsh and life threatening; some prisoners were physically and sexually abused by other prisoners. Arbitrary arrests and detentions occurred. Suspects often were held for periods that exceeded the maximum sentence for the alleged offenses, and lengthy pretrial detention remained a serious problem. Some local government officials limited freedom of speech and of the press in rural areas. Journalists practiced self-censorship. The Government at times limited freedom of assembly. Women continued to face some societal discrimination. Child labor occurred. Unlike in previous years, there were no reports that workers' rights were limited in the export processing zones (EPZs). There were unconfirmed reports of trafficking in women and girls.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

Unlike in the previous year, there were no political killings; however, security forces used lethal force to disperse demonstrations during the year (see Section 2.b.).

Lieutenant Colonel Assolant Coutiti and former Antsiranana Deputy Soaline, who were charged in 2002 with numerous politically motivated killings, were tried and sentenced during the year (see Section 1.e.).

In an April 9 article in a national daily newspaper, the family of Roland Ravalomasoa, a supporter of former

President Ratsiraka, demanded an inquiry into his April 2002 death; Ravalomasoa died from injuries sustained during interrogation by security forces. Government sources said no investigation had been conducted because the family had not made a formal request.

No action was taken in the March 2002 killing by gendarmerie of the former Regional Director of the Office of Copyrights.

No investigation was conducted into the February 2002 killing by several Ravalomanana supporters of a Ratsiraka supporter outside the Palace of Justice.

The results of an investigation into the April 2002 killing of a Canadian missionary by suspected pro-Ratsiraka militias were not released by year's end.

Unlike in the previous year, there were no high-profile killings of Karana (persons of Indo-Pakistani origin living in the country), and no further action was taken in previous killings.

b. Disappearance

There were no reports of politically motivated disappearances during the year.

There were several kidnappings and attempted kidnappings of members of the Karana community. These kidnappings appeared to have criminal rather than political motives and generally ended with payment of ransom and release of the victim.

The Government prosecuted and jailed Lieutenant Colonel Coutiti, the suspected ringleader in the 2002 abduction of the Church of Jesus Christ in Madagascar (FJKM) pastor Ndriamisaina.

No action was taken against the perpetrators of other 2002 abductions attributed to pro-Ravalomanana forces, such as the abduction of the state prosecutor for Fianarantsoa Province.

There were no arrests or other action taken in any of the 2001 cases of kidnapping.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution provides for the inviolability of the person, and unlike in the previous year, there were no reports that government forces or supporters of former President Ratsiraka used torture. However, security forces subjected prisoners to physical abuse, including the rape of female prisoners, and used lethal force to disperse demonstrations during the year, which resulted in numerous injuries (see Section 2.b.).

In July, Lieutenant Colonel Coutiti and former Deputy Soaline, who were charged in 2002 with numerous counts of abduction, torture, and killings, received partial sentences in connection with the arbitrary arrest, torture, and detention of persons in Pardes military camp. Several other persons were tried and sentenced during the year on charges related to actions at the Pardes camp (see Section 1.e.).

Prison conditions were harsh and life threatening. The country's 97 facilities, which were built for approximately 13,000 prisoners, held approximately 19,000, according to the Ministry of Justice. Prison cells averaged less than one square yard of space per inmate. Prisoners' diets were considered inadequate, and families and NGOs, including the Catholic Prison Chaplains (ACP), supplemented the daily rations of some prisoners. Authorities sometimes permitted outpatient care for well-known inmates; however, medical care for most prisoners was inadequate. Malnutrition, malaria, tuberculosis, pneumonia, and other ailments resulted in an unknown number of deaths during the year. According to a 2002 Catholic Relief Services' (CRS) report, many prison health problems could be alleviated through provision of adequate food. Unlike in the previous year, there were no reports that prisoners were denied family visitation.

During the year, the Government took steps to improve prison conditions. In January, President Ravalomanana granted amnesties and sentence reductions to numerous convicted prisoners; since 2002, approximately 3,300 prisoners have been granted such treatment. In February, in cooperation with the ACP and a foreign embassy, the Minister of Justice inaugurated a new water supply system for the Tsihafahy prison, a maximum-security facility.

Prisoners can be used as forced labor, and the Government acknowledged that this occurred during the year (see Section 6.c.).

Women were not always held separately from men, and there were reports of rapes committed by other prisoners. Approximately 10 of the 650 women incarcerated in the country were accompanied by their pre-school-aged children; unlike in the previous year, there were no reports that such children were subjected to abuse. Approximately 270 of the country's 19,000 prisoners were under 18; juveniles were not always held separately from the adult prison population. Pretrial detainees were not always kept separate from the general prison population.

In October, one of the detainees held in connection with the 2002 political crisis died in prison of neglect, according to media reports and other sources.

The Government was candid about prison conditions and generally open to requests for independent monitoring. The International Committee of the Red Cross (ICRC) has permanent offices in the country and was permitted access to detention centers throughout the country and unfettered access to detainees held in connection with the 2002 political crisis.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution provides for due process for persons accused of crimes and prohibits arbitrary arrest and detention; however, the Government did not always respect these provisions in practice. There were fewer reports of arbitrary arrest after the end of the 2002 political crisis.

There are two national police forces in the country: The National Police, which has jurisdiction in cities; and the Gendarmerie Nationale, which is part of the armed forces and has jurisdiction in all other areas. Corruption persisted in the lower ranks of both police forces. During the year, the Government appointed new senior leadership in both the National Police and the Gendarmerie.

The law mandates that a criminal suspect must be charged or released within 48 hours of arrest; however, during the year, the Government detained individuals, including some held in connection with the 2002 political crisis, for significantly longer periods of time before charging or releasing them. Long delays in bringing cases to trial often resulted in pretrial detention for periods longer than the maximum sentence on the charges faced.

The law provides that arrest warrants must be obtained in all cases except those involving hot pursuit; however, often a person was detained and jailed on no more than an accusation by another person. The Government at times used reservists, who operated outside the normal armed forces chain of command, to make arrests; however, the Government began disbanding reservist forces in December.

The law provides defendants in criminal cases with the right to counsel and the right to be informed of the charges against them; however, the Government was only required to provide counsel in cases in which defendants were indigent and faced charges carrying greater sentences than 5 years. Unlike in the previous year, the Government generally allowed detainees, including those held in connection with the political crisis, access to counsel and family visits.

A system of bail exists; however, in practice it was not available to many defendants. Magistrates often resorted to an instrument known as a retaining writ (*mandat de depot*) by which defendants were held in detention for the entire pretrial period or for periods longer than the maximum sentence on the charges faced. More than 65 percent of defendants arrested on suspicion of crimes related to the 2002 political crises were arrested with *mandats de depot*.

In February, soldiers arrested three persons for suspected complicity in plotting an abortive coup, including General Bruno Rajohnson and political activist Liva Ramahazomanana. Rajohnson was acquitted for lack of evidence; however, Ramahazomanana was sentenced to 2 year's imprisonment and remained in prison at year's end. No other information on the case was available.

In March, reservists arrested Olivier Hamada, a former government minister. The reservists had no arrest warrant and apparently were operating independently of police and gendarmerie chains of command. No other information was available by year's end.

In May, security forces arrested former Secretary for State Security Ben Marofo Azaly, the first high-ranking official of the Ratsiraka regime to return voluntarily to the country, and his two sons upon their arrival at Antananarivo airport. Azaly and one of his sons were held for several weeks before being charged with compromising the internal security of the state and inciting tribal hatred; in August, they were tried and sentenced to 5 years'

imprisonment. Both Azaly and his son filed an appeal, which was pending at year's end.

Long pretrial detention was a serious problem. In September, the Ministry of Justice reported that 73 percent of the country's approximately 19,000 prisoners were in pretrial detention; however, only 27 of these were incarcerated on political crisis-related charges. Poor record keeping, lack of resources, and the difficulty of access to remote parts of the island hindered the monitoring of pretrial detainees. Despite legal protections, investigative detentions often exceeded 1 year. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced. The January amnesty that benefited several hundred prisoners specifically excluded pretrial detainees.

On April 14, General Jean-Paul Bory, the second highest-ranking Army officer at the time of his 2002 arrest for "compromising state security," was released for insufficient evidence after 9 months of pretrial detention.

Unlike in the previous year, the Government did not use house arrest.

The Constitution does not specifically prohibit forced exile; however, the Government did not use it. Former President Ratsiraka and other members of his administration remained in self-imposed exile at year's end.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, at all levels, the judiciary was susceptible to the influence of the executive and at times susceptible to corruption.

In July, the Government suspended 18 mayors for alleged fiscal and administrative improprieties, including Roland Ratsiraka, the mayor of Toamasina and the nephew of the former president; Ratsiraka was arrested in 2002 and released pending a hearing on multiple charges related to the political crisis.

The judiciary is under the control of the Ministry of Justice. During the year, the Government took steps to implement its campaign against widespread judicial corruption. In March, 12 magistrates were suspended for corruption; in July, the 12 were sentenced to punishments ranging from 1 year's imprisonment to administrative sanctions, such as demotions and further suspensions. The Justice Ministry was investigating other magistrates suspected of similar wrongdoing at year's end. Also in July, the President appointed a prominent magistrate to be the president of the National Anti-Corruption Counsel, established in 2002 to develop a national anti-corruption strategy and a quasi-ministry to enforce anti-corruption measures.

The judiciary has four levels. Courts of First Instance hear civil cases and criminal cases carrying limited fines and sentences. The Court of Appeals includes a criminal court of first instance for cases carrying sentences greater than 5 years. The Supreme Court of Appeals hears cases on appeal from the Court of Appeals. The High Constitutional Court (HCC) reviews the constitutionality of laws, decrees, and ordinances and certified election results. The judiciary also includes specialized courts designed to handle specific matters such as cattle theft.

The Constitution provides defendants with the right to a full defense at every stage of the proceedings, and trials were public. Defendants have the right to be present at their trials, to confront witnesses, and to present evidence. The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. The CRS stated that the human rights of a person charged with a crime were often violated, and that there was a "large gap between the laws that served to protect the rights of the accused and the implementation of these laws in fact."

Military courts are reserved for the trial of military personnel and generally followed the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases, as in civil cases, have access to an appeals process that re-examines points of law rather than questions of fact. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The Constitution provides traditional village institutions with the right to protect property and public order. An informal, community-organized judicial system called Dina was used in certain rural areas to resolve civil disputes between villages over such issues as cattle rustling. The law limits Dina remedies to money damages; however, in the past, Dina-based punishment could be severe. The Dina process does not ensure internationally recognized standards of due process; however, unlike in previous years, there were no reports that Dina resorted to sentences involving physical force or loss of liberty. Dina decisions may be appealed through formal judicial channels to a court of general jurisdiction or to the Office of the Mediator, which investigated and sought redress through formal

judicial authorities.

The status of prisoners detained for their role in the political crisis remained a major concern. According to the Ministry of Justice, 388 persons had been arrested by August 1 for their roles in events linked to the 2002 political crisis; 254 of those individuals were remanded to custody. Of the 254, 80 were convicted, 147 were released, and 27 had not yet been tried. In December, the Government tried several dozen defendants, some for the first time, on charges that ranged from compromising the internal security of the state, inciting tribal hatred, and destroying national infrastructure to assault and theft. On December 31, President Ravalomanana announced a pardon for prisoners who were sentenced to 3 years' imprisonment or less; the pardon was expected to affect between 70 and 140 prisoners. The President added that further pardons would be considered on a case-by-case basis.

In July, Lieutenant Colonel Coutiti and former Antsiranana Deputy Soaline, who were charged in 2002 with numerous politically motivated abductions and killings in Antsiranana Province, received partial sentences: Coutiti, who was awaiting trials on other charges at year's end, was sentenced to 18 years imprisonment; Soaline, who remained outside the country, was sentenced in absentia to 5 year's imprisonment for obstruction of free movement of goods and persons and faced further charges.

The Criminal Court of General Jurisdiction also tried and sentenced in absentia other members of the former administration: Former President Didier Ratsiraka was sentenced initially to 10 years' hard labor for a single count of embezzlement, and subsequently sentenced to 5 years' imprisonment for secession; former Minister of Finance Razafimanjato and Ferdinand Velomia, the former Director of the Toamasina branch of the Malagasy Central Bank, were sentenced to 6 years' hard labor for embezzlement; and Pierrot Rajaonarivelo, the National Secretary of AREMA and former Vice Prime Minister, was sentenced to 5 years' imprisonment for abuse of public office. Former Prime Minister Andrianarivo was sentenced to 12 years' hard labor and fined \$7 million (40 billion FMG) for abuse of office; however, on December 31, President Ravalomanana said Andrianarivo would be permitted to leave the country for medical treatment. In December, the Court also sentenced five former governors (two in absentia) to between 3 and 5 years' imprisonment for secession. During Rajaonarivelo's trial in March, the presiding magistrate ordered an impromptu 45-minute recess to attend to what press reports described as an "urgent call". Defense attorneys charged that the executive had interfered with the judicial process. Authorities later admitted the incident was a "formal irregularity" but denied allegations of improper government meddling.

There were no further developments in the 2002 case of pending charges against the former Mayor of Toamasina, Roland Ratsiraka.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these provisions in practice. Unlike in the previous year, there were no reports that supporters of President Ravalomanana looted and burned homes of Ratsiraka supporters or that pro-Ratsiraka militias forced pro-Ravalomanana supporters from their homes. Unlike in the previous year, there were no reports that a write-in informant system operated in Toamasina Province.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the Government limited these rights in practice. There were reports that some provincial government officials pressured the media to curb its coverage of certain events and topics, and there were reports that government personnel intimidated journalists. Journalists practiced self-censorship.

There were six privately owned major daily newspapers and many other privately owned national and local news publications that published less frequently; however, widespread illiteracy and a poorly developed system of distributing publications printed in the capital limited the impact of print media.

The Government owned the only nationwide television and radio networks. In August, MBS Radio, owned by President Ravalomanana and managed by his daughter, broadened its reach through satellite relays and became the first private radio station to have near-nationwide coverage.

In May, the daily Gazette de la Grande Ile published an article alleging that TIKO, the dairy products firm owned by

President Ravalomanana and managed by his daughter, illegally purchased two state-owned companies. TIKO sued for defamation, and demanded the closure of the paper; a prison term for Lola Rasoamaharo, the Gazette editor; and damages of \$100,000 (600 million FMG). In September, the Antananarivo Correctional Court sentenced Rasoamaharo to a 3-month suspended sentence and a symbolic fine of less than 1 cent (1 FMG).

Many journalists privately admitted practicing self-censorship, particularly at the local level. Some journalists in provincial capitals reported being threatened with prison sentences after broadcasting or publishing stories that were critical of local leaders. Others reported receiving messages threatening members of their families if they pursued controversial stories. Many journalists reported avoiding articles critical of wealthy individuals and corporations because they lacked the means to defend themselves in court. Journalistic organizations were ineffective in defending such individuals because they were weak, poorly paid, and not always impartial. In almost all such cases, journalists chose to stop working on the story at issue.

Government agencies and private companies sometimes bribed journalists, who generally received minimum or below minimum wages, to ensure positive coverage of certain events.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government at times limited the right in practice. The Government routinely issued permits for public meetings and demonstrations.

During the year, the Government used increasingly strong measures to disperse demonstrations. In March, security forces used tear gas to disperse a demonstration in Tulear by the opposition group Committee for Truth and Justice (KMMR); six persons were injured. At a second KMMR rally in Antananarivo in May, dozens of unidentified youths, unhindered by nearby police units, rushed the stage, torched banners, destroyed decorations, and dismantled the podium; the rally was abandoned. The Government refused to investigate either incident, and maintained that the police were not obligated to intervene. On June 7, security forces used live ammunition to disperse a demonstration in Toamasina by the National Reconciliation Committee (CRN), a political opposition group; one person reportedly was killed and numerous others were seriously injured. The Government claimed no investigation of these matters was warranted because security forces acted within the scope of their authority. No opposition groups organized large demonstrations after June 7.

No investigation was conducted into the 2002 cases in which security forces forcibly dispersed demonstrations.

The Constitution provides for the right of association and permits citizens to organize political parties and associations; however, the Constitution also explicitly forbids associations that "call into question the unity of the Nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were 160 political parties throughout the country.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious organizations are not required to register with the Ministry of Interior; however, it is recommended that they do so. There are no penalties for failure to register and there were no reports that any group was denied registration during the year.

Unlike in the previous year, there were no reports that the Government restricted religious freedom, threatened and mistreated church pastors, or imposed restrictions on religious gatherings.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27736pf.htm).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and unlike in the previous year, the Government generally respected these rights in practice. The fear of crime effectively restricted travel in some areas, especially at night.

Curfews were briefly imposed in Toamasina after minor disturbances in June and October; however, unlike in the previous year, when martial law was imposed as a result of the political conflict, there were no port barricades or restrictions of movement.

Although the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, there were no reports of the forced return of persons to a country where they feared persecution. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting the small number of refugees in the country. The Government provided temporary protection to individuals who fall outside of the definition of the 1951 U.N. Convention Related to the Status of Refugees or its 1967 Protocol.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens the right to change their government peacefully; however, some degree of turmoil accompanied the three changes of government that occurred over the last 13 years.

The country nominally was a democracy in which power was divided between the executive, a bicameral assembly, an independent judiciary, and six provincial administrations. The President names one-third of the senators. Political and business leaders disproportionately influenced the administration of the country. Political parties coalesced around the single most powerful person, usually the President. "Pensee Unique," a national belief in which dissent was viewed as an attack on societal harmony, made an effective opposition difficult in practice. Representatives of the President's political party usually controlled the National Assembly. The December 2002 legislative elections and four follow-up contests held in March resulted in a substantial majority (133 of 160) of deputies elected from the President's TIM party and the pro-Ravalomanana National Alliance. International observer teams found the December 2002 election process to be transparent and the results credible, despite some organizational problems.

In the December 2001 presidential elections, which were conducted amid widespread allegations of fraud, former President Ratsiraka received 40.69 percent of the vote, while his main challenger, Mayor of Antananarivo Marc Ravalomanana received 46.49 percent. Following mediation by the Organization of African Unity in April 2002, the HCC gave Ravalomanana the victory. Ratsiraka, from his base in the east coast port city of Toamasina and with the support of five of the country's six provincial governors, tightened the blockade around the capital Antananarivo by attacking its infrastructure, particularly the bridges. After the HCC ruling, the Armed Forces, until then largely neutral, shifted increasingly to the Ravalomanana side. Starting in May, the Ravalomanana forces steadily gained control over the entire country, ultimately forcing Ratsiraka into exile in July 2002. From January 2002 to June 2002, both Ravalomanana in Antananarivo and Ratsiraka in the port city of Toamasina claimed to be the legitimate head of state. Widespread, politically motivated conflict resulted in approximately 100 deaths; blockades and infrastructure attacks by pro-Ratsiraka forces severely disrupted the economy.

During the year, the President continued his anti-corruption campaign (see Section 1.e.). In July, the Government suspended 18 mayors for alleged fiscal and administrative improprieties, including Roland Ratsiraka, the mayor of Toamasina and the nephew of the former president; Ratsiraka was arrested in 2002 and released pending a hearing on multiple charges related to the political crisis. None of the suspensions led to criminal charges; however, one of the suspended mayors was arrested on unrelated charges and released shortly afterward.

Soon after the July suspension of the 18 mayors, the Government announced that municipal elections would be held in November. The Government claimed the suspensions would not bar the 18 from running; however, the suspensions complicated preparations for the election, as did August legislation that established two different processes for municipal elections--one for large cities and the other for the remainder of the country. In cities, the candidate with a plurality won; in rural communities, a party list system (in which the winner is the first name on the party list receiving the plurality of votes) was used. Municipal councils in both urban and rural communities were chosen using party lists. Logistical problems, including a shortage of transparent ballot boxes, resulted in the elections being held on two different dates: November 9 and 23. The TIM party received 56 percent of rural and 60 percent of urban mayoral seats.

There were 8 women in the 160-member National Assembly elected in December 2002.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of local and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their

views.

The Constitution requires the Government to create apolitical organizations that promote and protect human rights. However, the governmental National Commission for Human Rights (CNDH) has had a limited impact on promoting human rights issues and was viewed as partisan during the 2002 political crisis because of its general support for former President Ratsiraka. During the year, the CNDH was technically inactive because the Government did not name replacements for its 25 members, whose mandates expired in October 2002. The Government offered no explanation for the delay in naming replacements.

The Government permitted visits during the year by international NGOs, including the ICRC.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits all forms of discrimination; however, no specific government institutions were designated to enforce these provisions.

#### Women

Domestic violence against women was a problem. Police and legal authorities generally intervened when physical abuse was reported. Amendments promulgated in January to the Penal Code specifically prohibit domestic violence, expand the definition of rape, and prohibit sexual harassment. In December 2002, the Government launched the first national campaign highlighting domestic violence.

Prostitution was not a crime; however, related activities, such as pandering, are criminal. Incitement of minors to debauchery is a crime. During the year, authorities reportedly dismantled a prostitution ring in Reunion involving some Malagasy women; the women reportedly claimed they could earn more in a month in Reunion than the equivalent of 12 years' minimum wage in the country.

The Ministry of Tourism acknowledged the problem of sexual tourism, conducted several workshops during the year to address the issue, and in March, established an oversight committee to coordinate work on the problem.

There were unconfirmed reports of trafficking (see Section 6.f.).

Under the law, wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage was dissolved. In practice, this requirement was not always observed. Widows with children inherit half of joint marital property. A tradition known as "the customary third" occasionally was observed in some areas. Under this custom, the wife had the right only to one third of a couple's joint holdings; however, a widow was eligible to receive a government-provided pension, while a widower was not.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in state-owned companies. In August, the Ministry of Labor reported that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. However, women may not work in positions that might endanger their health, safety, and morals. A number of NGOs focused on the civic education of women and girls, and publicized and explained their specific legal protections; however, due to cultural traditions, few women lodged official complaints or sought redress when their legal rights were compromised.

#### Children

The Ministry of Health, the Ministry of Education, and the Ministry for Population and the Condition of Women and Children were responsible for various aspects of child welfare; however lack of funding resulted in inadequate services and precluded the compilation of reliable statistics.

The Constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory; however, only 50 percent of primary school age children were enrolled (see Section 6.d.). In August, the Government implemented the Education for All program to provide essential school supplies to primary school children.

Child prostitution was a problem. During the year, the International Labor Organization's (ILO) International Program for the Elimination of Child Labor (IPEC) conducted a study of child prostitution in Mahajanga. According



to the study, acute poverty and lack of family support were the primary reasons that children engaged in prostitution, and the practice was so widespread in Mahajanga that it was not considered abnormal.

Child labor was a problem (see Section 6.d.).

#### Persons with Disabilities

There was no official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities and provides for a National Commission and regional sub-commissions to promote the rights of persons with disabilities; however, neither the National Commission nor the regional sub-commissions have been established. International NGOs, including Handicap International Madagascar, and numerous local associations, including the Collective of Organizations Advocating for Persons with Disabilities, advocated for legislation mandating equal access for persons with disabilities and the establishment of the National Commission.

#### National/Racial/Ethnic Minorities

The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, were divided into 18 tribes, a term without pejorative overtones in the country. The vast majority of Malagasy spoke a single Malagasy language, albeit with certain regional differences. None of the 18 tribes constituted a majority. There were also large minorities of Indo-Pakistani and Chinese heritage in the country.

A long history of military conquest and political dominance raised the status of highland ethnic groups of Asian origin, particularly the Merina, above that of coastal groups of African ancestry. This imbalance persists and fueled an undercurrent of tension between Malagasy of highland and coastal descents. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

A significant Indo-Pakistani (Karana) community has been present for over a century. Traditionally engaged in commerce, the Karana number approximately 20,000 persons. Few of them hold citizenship, which is acquired through a native-born Malagasy mother, and most believed they were denied full participation in the society and subject to discrimination. In August, National Assembly and public debate over a bill to permit foreigners to own land created public controversy because many citizens believed it would facilitate ownership of real property by resident, but non-citizen, Karana. Although tensions persisted, there were some efforts to facilitate greater inter-community understanding.

#### Section 6 Workers Right

##### a. The Right of Association

The Constitution and the Labor Code provide workers in the public and private sectors with the legal right to establish and join labor unions of their choosing without prior authorization; however, essential service workers, including police and military personnel, may not form unions. Unions were required to register with the Government, and registration was granted routinely. Ministry of Labor statistics indicate that less than 5 percent of workers in EPZ companies and less than 10 percent of all workers were unionized, in part because between 70 and 80 percent of the workforce engaged in subsistence agriculture. Despite the existence of several public employees' unions, few public employees were union members. There were a number of trade union federations, many of which formally affiliated with political parties.

The Labor Code prohibits discrimination by employers against labor organizers, union members, and unions. In the event of anti-union activity, unions or their members may file suit against the employer in civil court.

Unions may join international labor organizations and may form federations or confederations.

##### b. The Right to Organize and Bargain Collectively

The Constitution provides for the right of workers to bargain collectively; however, collective bargaining agreements remained rare. The Labor Code states that either management or labor may initiate collective bargaining. The Government set wages (see Section 6.e.).

The Constitution provides for the right to strike, including in EPZs, within parameters fixed by law. The Labor Code

calls for workers to exhaust all options including conciliation, mediation, and arbitration before resorting to strikes. Workers in essential services have a recognized but restricted right to strike; however, they did not exercise this right during the year.

In October, a union representing former employees of SOLIMA, the state petroleum company, held a short strike to contest the restructuring that followed privatization. After the strikers blocked distribution from regional terminals, authorities invoked a public safety provision of a privatization law and ordered resumption of fuel deliveries, which began shortly after the government action. A peaceful settlement was reached in October.

Labor laws apply uniformly throughout the country; however, the Government's enforcement of labor laws and regulations was hampered by a lack of staff and financial resources. Workers had recourse through the Ministry of Civil Service, Labor, and Social Laws' Office of Work for dismissals and the Office of Social Protection for mistreatment. There were many EPZs that in practice were firms operating under special import and export rules. EPZ firms were required to follow all pertinent labor laws and regulations, including minimum wage laws. EPZ firms generally used worker representation councils, whose members were elected by the employees but were not necessarily union representatives. Unlike in the previous year, these representatives were not perceived to be subject to pressure from management. Unlike in the previous year, there were no reports that union members working in EPZs were mistreated or fired. The Foundation Friedrich Ebert held workshops during the year to promote union cohesiveness and encourage the formation of a single confederation of EPZ unions.

#### c. Prohibition of Forced or Bonded Labor

The Labor Code prohibits forced or bonded labor, including by children; however, at times the Government did not respect this prohibition, specifically with respect to prison labor. In 2002, the ILO noted that the Government hired out some prisoners and pretrial detainees to private firms that provided basic amenities such as food and clothing in return for the prisoners' labor; the ILO recommended that the Government cease the practice. In September, the Ministry of Decentralization, in cooperation with the ILO, began a comprehensive study of forced labor in the country (see Sections 6.d. and 6.e.). Results of the study, which concluded in December, were expected in 2004.

#### d. Status of Child Labor Practices and Minimum Age for Employment

Child labor was a problem. The Labor Code defines a child as any person under the age of 18 years and sets the minimum age for employment at 14. The Labor Code also prohibits persons under age 18 from working at night and at sites where there is an imminent danger to health, safety, or morals. Nearly 20 percent of urban children and 60 percent of rural children between the ages of 7 and 14 were intermittently employed, the vast majority on family farms. Children in rural areas generally dropped out of school to help on family farms, and urban children often worked as domestic laborers and servants. In the agricultural sector, work for children on the family subsistence farm may begin at an even younger age. In cities many children worked in occupations such as transport of goods by rickshaw and petty trading. During the year, IPEC reported that children as young as 8 years old were being used in mines because they could maneuver in cramped spaces more easily than adults.

The Government, with IPEC assistance, implemented some provisions of ILO Convention 182 on the worst forms of child labor by undertaking a study of the worst forms of child labor in the country, including prostitution and quarry and salt marsh work.

The Government enforced child labor laws in the formal economic sector by means of inspectors from the Ministry of Civil Services; however, enforcement in the much larger informal sector remained a serious problem.

In May and June, the Ministry of Labor, in conjunction with the ILO/IPEC, conducted a child labor awareness campaign in all six provincial capitals. The initiative, which targeted employers, called for raising the minimum age of employment to 15 years and culminated in a well-publicized "Day Against Child Labor."

#### e. Acceptable Conditions of Work

The Labor Code and its implementing legislation prescribe working conditions and wages, which were enforced by the Ministry of Civil Service, Labor, and Social Laws. The law makes separate provisions for agricultural and nonagricultural work.

In April, the Government passed a decree increasing the monthly minimum wage by 12 percent to \$32.29 (197,000 FMG) in the nonagricultural private sector and \$32.78 (200,000 FMG) in the agricultural sector. The national

minimum wage did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees knew what the legal minimum wages were, in practice those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42½ hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week; however, there were reports that employees often were required to work until production targets were met. In some cases, this overtime was unrecorded and unpaid.

The Labor Code sets rules and standards for worker safety and worksite conditions. The Ministry of Labor had 40 formal sector inspectors to enforce all labor laws, including child labor laws, throughout the country. These inspectors were only able to cover the capital effectively. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. CNAPS, the country's equivalent of the Social Security Administration, published reports on workplace conditions, occupational health hazards, and workplace accident trends. Workers did not have an explicit right to leave a dangerous workplace without jeopardizing their employment. The Labor Code applies to all legal workers.

#### f. Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and there were unconfirmed reports of trafficking in women and girls for prostitution between Madagascar and the neighboring islands of Mauritius and Reunion. Traffickers may be prosecuted under provisions of the Penal and Labor Codes that prohibit pedophilia and sexual tourism. There were no reports of arrests for trafficking. While the Government has expressed concern about trafficking, it lacked the resources to address it effectively.